IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.727 OF 2005

IN

SUIT NO.516 OF 2005

Satish Mahadeo Joshi. ...Plaintiff.

Vs.

Sanjay P. Sonar. ...Defendant

Mr.Ketan Chotani with Ms.Sapna Sampat i/b. H.S.S.Murthy,for Plaintiff.

Mr.Madhavi Gaikwad i/b. R.D.Sohani, for Defendant.

CORAM: D.K.DESHMUKH, J.

DATED: 26th April,2006

P.C.:-

1. It is clear that the defendant is in possession of the property on the basis of conducting agreement. It is also clear that the tenure of the conducting agreement is already over. But the

plaintiff's entitlement to the possession of the property is also in doubt because of the copy of the Will of the original owner of the property produced by the defendant. It appears from the Will that the wish of the intestate is that the property should be used for charitable purpose. In my opinion, following order would meet the ends of justice:-

(i) The Receiver of this Court is appointed as Receiver of the suit premises described in prayer clause (a) of this notice of motion. The Court Receiver shall appoint the defendant as his agent to be in possession of the premises on usual terms and condition but the amount of royalty shall be Rs.14,000/- per month. The agent will pay the outgoings of the property.

(ii) The defendant shall hand over to the receiver a copy of the Will in possession of the defendant. The Receiver is directed to get in touch with Mr.V.R.Agnihotri whose name and address is mentioned in paragraph 2 of the Will. The Receiver shall in case Mr.Agnihotri fails to take steps as expected from him, take steps to get Will probated. If necessary, the Receiver shall contact the Charity

Commissioner also for the purpose of filing probate petition. If necessary, the Receiver may spend amount from the amount of the Royalty deposited by the defendant.

(iii) The Receiver shall submit report to the Court and seek appropriate order, if necessary. The parties shall be at liberty to approach the Court for further directions, if necessary.

Notice of motion is disposed of.